

TITLE: CIB 95-10 Class Deviation to FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans

March 15, 1995

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC

FROM: DAA/M, Michael D. Sherwin, Procurement Executive

SUBJECT: Class Deviation to FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans

CONTRACT INFORMATION BULLETIN 95-10

The contract clause at FAR 52.222-35 implements Department of Labor (DOL) regulations that implement the Vietnam Era Veterans' Readjustment Assistance Act. On January 5, 1995, the DOL published a final rule in the Federal Register revising its regulations. The revisions reflect amendments made by the Veterans' Benefits Act of 1992 (P.L. 102-568) and the Veterans' Benefits Improvements Act of 1994 (P.L. 103-446). P.L. 102-568 repealed the December 31, 1994, sunset date for a provision defining "veteran of the Vietnam era." Pub. L. 103-446 eliminated the \$25,000 salary ceiling in DOL's regulations, expanded the scope of employment openings that must be listed with the state employment service office by deleting the word "suitable" from the phrase all "suitable employment openings;" more broadly defined that phrase; and limited the exceptions to the mandatory listing requirement. Additionally, American Samoa and the Trust Territory of the Pacific Islands have been removed as exceptions to the requirement for listing of employment openings.

By my signature of this CIB, I am approving a class deviation to the clause at FAR 52.222-35 to conform to the revised laws and DOL's revised regulations as recommended by the Civilian Agency Acquisition Council.

This deviation applies to all AID-direct contracts in which the clause at FAR 52.222-35 would be required pursuant to FAR 22.1308. The deviation will continue in effect until the FAR is amended to incorporate the changes authorized by this deviation.

For your convenience, the deviation has been prepared as an attachment to this CIB, suitable for reproduction and use in RFP's and contracts. Attachment: Class Deviation to FAR 52.222-35.

CLASS DEVIATION TO FAR 52.222-35,
Affirmative Action for Special
Disabled and Vietnam Era Veterans
(APR 1984)

In order to implement applicable laws and Department of Labor regulations, the clause at FAR 52.222-35 is amended as follows:

1. Paragraph (a) is revised to read as follows:

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-state national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

"Positions that will be filled from within the Contractor's organization," as used in this clause, means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Employment openings," used in this clause, includes full-time employment, temporary employment of over 3 days, and part-time employment, but does not include (1) executive and top management positions, (2) positions that will be filled from within the Contractor's organization or under a customary and traditional employer-union hiring arrangement, or (3) openings in an educational institution that are restricted to students of that institution.

2. Paragraph (c) (1), (2) and (3) are amended by deleting the word "suitable" wherever it appears.

3. Paragraph (d) (1) is revised as follows:

(d) Applicability.

(1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.